IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.102 OF 1987

Dr.Aspi F.Golwala & Ors. .. Plaintiffs.

Versus

Eruch Pirozshaw Talati & Anr. .. Defendants.

Mr.Cyrys Bharucha for plaintiffs.

Mr.M.P.Narayanswamy for defendant No.1.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 17TH JULY, 2007.

P.C.:

1. The plaintiffs have instructed their Advocates not to press for any relief with regard to mesne profits. However, the plaintiffs are claiming reliefs in terms of prayer clause (ai) i.e. possession of the suit premises.

2. Mr.Narayanswamy after taking instructions from defendant No.1 makes a statement that possession has already been handed over to the Court Receiver, who has been appointed in the present suit. He further states that defendant No.1 has no objection to the Court Receiver handing over physical possession of the suit premises /

property to the plaintiffs.

3. In the light of the agreement between parties and since the decree is being passed by consent, it is directed that the Court Receiver, High Court, Bombay shall handover possession of the suit premises / property to the plaintiffs without insisting on the accounts but subject to payment of his usual cost, charges and expenses. Mr.Bharucha states that the Court Receiver had appointed the nominee of the plaintiffs as his agent and it is only that the notional possession will have to be transferred and handed over. He states that the nominee is in physical possession of the premises and has not parted with them till date. In the light of this consent decree, the undertaking given by the plaintiffs / nominee of the plaintiffs to the Court Receiver stands discharged.

4. By consent of parties, it is directed that the decree shall be satisfied after the defendant hands over the necessary documents with regard to the property and that there shall be no further steps to be taken by parties including any enquiry into the mesne profits.

5. The suit is disposed of accordingly. Refund of Court fees, if any, as per rules. No order as to costs.

(S.C.Dharmadhikari, J.)